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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF WESTERN WASHINGTON**

10 Washington Shoe Company, a Washington) **Civil Action No.:**
11 Corporation)
12) **COMPLAINT**
13 Plaintiff,)
14 v.)
15) **JURY DEMAND**
16 ACADEMY LTD., d/b/a ACADEMY)
17 SPORTS + OUTDOORS, a Texas)
18 Partnership)
19 Defendant.)
20)
21)
22)
23)
24)
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20 **COMPLAINT**

21 **JURISDICTION AND VENUE**

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23 1. This Action arises under the copyright laws for the United States, 17 U.S.C.
24 §101 et. seq., this Court has original and exclusive jurisdiction over these claims pursuant to 28
25 U.S.C. §1338.

26 2. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) and (c).
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PARTIES

3. Plaintiff Washington Shoe Company ("Washington Shoe") is, and at all times herein mentioned was, a corporation organized and existing pursuant to the laws of the state of Washington and having its principal place of business at 2101 72nd Avenue S, Kent, Washington, 98032.

4. On information and belief, defendant Academy Ltd., d/b/a Academy Sports + Outdoors ("Academy") is, and at all times herein mentioned was, a partnership organized and existing pursuant to the laws of the state of Texas and having its principal place of business located at 1800 N Mason Road, Katy, Texas, 77449, and does business in and has committed the acts complained of in the Western District of Washington.

5. On information and belief, Academy has operated and continues to operate an interactive web site at www.academy.com, wherein customers in the State of Washington and in this judicial district can view products offered for sale by Academy, can order products offered on the web site, and pay for ordered products via the interactive web site.

COUNT I – COPYRIGHT INFRINGEMENT

6. Washington Shoe herein re-alleges and incorporates paragraphs 1-5 inclusive, of this complaint as if fully set forth herein.

7. Washington Shoe was engaged in the manufacture, design, distribution, and sale of men's, women's, and children's footwear in the United States and abroad, directly or through its licensees.

8. The products of Washington Shoe contain original material. One such product is a boot incorporating artwork depicting a fanciful pattern, titled Magic Carpet.

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2 9. The two dimensional artwork applied to the Magic Carpet Boot was first
3 created by Washington Shoe in 2007.

4 10. Washington Shoe is the owner of United States Copyright Registration No.
5 VAu 757-022 having an effective date of registration of August 9, 2007. A true and correct copy of
6 the certificate and deposit copy are attached hereto as Exhibit A.

7
8 11. At all relevant times, Washington Shoe was and continues to be the sole
9 proprietor of all rights, title, and interest in and to the copyright rights of the Magic Carpet work
10 depicted in Exhibit A. At no time has Washington Shoe authorized defendant, Academy, to
11 reproduce, adapt, distribute, sell, perform, or display the copyrighted work.

12
13 12. On information and belief, the defendant Academy has offered for sale,
14 displayed, and distributed in interstate commerce, unauthorized copies of Washington Shoe's
15 copyrighted work for financial gain. The photograph of such unauthorized work is attached as
16 Exhibit B.

17 13. On June 3, 2010, Washington Shoe notified Academy of the act of infringement
18 in a letter addressed to counsel representing Academy in a previous copyright infringement matter
19 involving Academy and Washington Shoe. A copy of the letter is attached as Exhibit C.

20
21 14. On information and belief, defendant Academy has infringed, and threatens to
22 continue infringing, Washington Shoe's said copyright interest by reproducing, adapting,
23 distributing, selling, performing, or displaying the said copyrighted work.

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25 15. On information and belief, Academy's acts of infringement were done willfully
26 with knowledge or reckless disregard of the rights of Washington Shoe.

27 16. By reason of defendant's infringement and threatened infringement of
28 Washington Shoes copyrights, Washington Shoe has sustained and will continue to sustain

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substantial and irreparable injury, loss, and damage to their rights in the copyright work.

17. Washington Shoe is further entitled to recover from defendant the damages sustained by Washington Shoe as a result of Academy's acts of copyright infringement. Washington Shoe at present is unable to ascertain the full extent of monetary damages it has suffered by reason of Academy's acts of copyright infringement.

18. Washington Shoe is further entitled to recover from defendant the gains, profits, and advantages Academy has obtained as a result of its acts of copyright infringement. Washington Shoe presently is unable to ascertain the full extent of the gains, profits, and advantages defendant has obtained by reason of its acts of copyright infringement.

COUNT II- COPYRIGHT INFRINGEMENT

19. Washington Shoe herein re-alleges and incorporates paragraphs 1-18 inclusive, of this Complaint as if fully set forth herein.

20. The products of Washington Shoe contain original material. One such product is a boot incorporating artwork depicting a zebra striped pattern entitled Zebra Supreme. A photograph of the work is attached hereto as Exhibit D.

21. The two dimensional artwork applied to the Zebra Supreme Boot was first created by Washington Shoe in 2007.

22. Washington Shoe is the owner of corrected United States Copyright Registration No. VAu 1-007-893 having an effective date of registration of January 8, 2010. A true and correct copy of the certificate and deposit copy are attached hereto as Exhibit E.

23. At all relevant times, Washington Shoe was and continues to be the sole proprietor of all rights, title, and interest in and to the copyright rights of the Zebra Supreme work

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2 depicted in Exhibit D. At no time has Washington Shoe authorized defendant, Academy, to
3 reproduce, adapt, distribute, sell, perform, or display the copyrighted work.

4 24. On information and belief, the defendant Academy has offered for sale,
5 displayed, and distributed in interstate commerce, unauthorized copies of Washington Shoe's
6 copyrighted work, and has in fact sold and distributed such unauthorized copies for financial gain.
7
8 The photograph of such unauthorized work is attached as Exhibit F.

9 25. On June 3, 2010, Washington Shoe notified Academy of the act of infringement
10 in a letter addressed to counsel representing Academy in the infringement dispute with Washington
11 Shoe regarding the Magic Carpet work. A copy of the letter is attached as Exhibit G.

12 26. On information and belief, defendant Academy has infringed, and threatens to
13 continue infringing, Washington Shoe's said copyright interest by reproducing, adapting,
14 distributing, selling, performing, or displaying the said copyrighted work.

15 27. On information and belief, Academy's acts of infringement were done willfully
16 with knowledge or reckless disregard of the rights of Washington Shoe.

17 28. By reason of defendant's infringement and threatened infringement of
18 Washington Shoes copyrights, Washington Shoe has sustained and will continue to sustain
19 substantial and irreparable injury, loss, and damage to their rights in the copyright work.

20 29. Washington Shoe is further entitled to recover from defendant the damages
21 sustained by Washington Shoe as a result of Academy's acts of copyright infringement.
22 Washington Shoe at present is unable to ascertain the full extent of monetary damages it has
23 suffered by reason of Academy's acts of copyright infringement.

24 30. Washington Shoe is further entitled to recover from defendant the gains, profits,
25 and advantages Academy has obtained as a result of its acts of copyright infringement. Washington
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Shoe presently is unable to ascertain the full extent of the gains, profits, and advantages defendant has obtained by reason of its acts of copyright infringement.

PRAYER FOR JUDGMENT AND RELIEF

WHEREFORE, the plaintiff Washington Shoe requests this Court:

(a) Adjudge that defendant Academy has infringed the plaintiff's copyright;

(b) Order the defendant Academy to deliver up for destruction all unauthorized copies of the plaintiff's copyrighted work, along with any packages, wrappers, advertisements, catalogs, or other publications, including derivative works of the unauthorized copies;

(c) Award to plaintiff the defendant Academy's profits from its sale of the unauthorized copies of the plaintiff's copyrighted work, together with the damages sustained by the plaintiff in any such as the court shall find to be just as a result of the defendant Academy's copyright infringement;

(d) Require the defendant Academy to pay the costs of this action together with the plaintiff's reasonable attorney fees and disbursements incurred therein; an

(e) Award to the plaintiff prejudgment and post-judgment interest.

DEMAND FOR JURY TRIAL

Plaintiff Washington Shoe pursuant to Federal Rule of Civil Procedure 38(b), hereby demands a trial by jury on all issues triable of right by jury.

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Respectfully Submitted,

WASHINGTON SHOE COMPANY

By its Attorneys,

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